

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

27140

FILE: B-213364**DATE:** January 3, 1984**MATTER OF:** Spectra-Physics**DIGEST:**

Protest of apparent alleged solicitation defect concerning required bidding scheme is untimely, since it was not filed prior to the bid opening date as required by section 21.2(b)(1) of GAO Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1983).

Spectra-Physics protests the award of a contract for an argon ion laser and fingerprint detection package to Coherent Corporation under invitation for bids No. BATF-83-14, issued by the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms.

The solicitation required bids on six items. A bidder was required to price a seventh item only if it was offering a certain type of system.

Spectra-Physics offered the type of system that required it to price item 7. Coherent Corporation bid a system which did not require item 7. Spectra Physics now argues that being required to bid on item 7 caused it to be noncompetitive with other bidders.

Section 21.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1983), requires protests of obvious alleged solicitation defects to be filed prior to the bid opening date. The solicitation clearly informed bidders of the required bidding scheme. Therefore, Spectra-Physics was required to protest that scheme prior to bid opening. Since it did not, its protest is dismissed as untimely.

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